

What is an Independent Review?

When complaints of student harassment are filed in schools, sometimes the complainant and/or the complainant's parents are dissatisfied with how the school responded to the complaint. Or, sometimes a school district or independent school may want to obtain an outside opinion on how well it is handling harassment complaints.

An Independent Review is the process by which students, parents and schools can obtain a second, impartial evaluation of the sufficiency of the school's harassment policy, investigation and, if applicable, response to substantiated harassment.

Under What Circumstances May an Independent Review be Requested?

Either a school or a complainant (or his/her parents/guardians) may request an independent review of a school's response to a harassment complaint. This process is not available for students accused of harassment, employee harassment complaints, bullying complaints, or complaints regarding other misconduct.*

The complainant/parents may request an independent review if s/he: (1) believes that the school did not correctly analyze the complaint and failed to conduct an investigation of the incident because the school believed the alleged conduct did not constitute possible harassment, (2) is dissatisfied with the final determination following an investigation as to whether harassment occurred, or (3) believes that although a final determination was made that harassment occurred, the school's response was inadequate to correct the problem. The complainant/parents must make a request for an independent review in writing to the superintendent of schools/head of school.

How Are Independent Reviewers Selected?

The Vermont Department of Education and the Vermont Human Rights Commission developed a list of independent reviewers who were chosen based on their objectivity, knowledge of harassment issues, and relevant experience. The superintendent/head of school selects an independent reviewer from this list. The cost of an independent review is paid by the school.

What Does an Independent Reviewer Do?

The independent reviewer reviews school records and interviews the complainant and necessary school officials. Once a review is completed, the independent reviewer will advise the complainant/parents and the school in writing as to the sufficiency of the school's assessment of the original complaint, its investigation, its determination, the steps taken by the school to correct any harassment found to have occurred, and/or any future steps the school should take to prevent further incidents of harassment. The independent reviewer will also advise the complainant/parents of other options available if s/he is still dissatisfied and, if appropriate, may recommend mediation or other forms of alternative dispute resolution. The independent reviewer's job is not to conduct a second investigation. Rather, the independent reviewer is an objective third party who reviews the sufficiency of the school's response to a complaint of harassment. The independent reviewer is not an advocate for either the complainant/parents or the school. Instead, the independent reviewer is an advocate for the effectiveness of the harassment complaint assessment, investigation, and response processes.

What About Confidentiality?

There are state and federal laws designed to protect the confidentiality of student records. The independent review must be carried out so that both the school and the independent reviewer follow these laws. Because the school maintains the records on all of its students and staff, the independent reviewer may refer to personally identifiable information about students when he/she advises the school. In contrast, when the independent reviewer advises the complainant/parents, he/she may provide information about the sufficiency of the school's investigation and response, *but may not disclose personally identifiable information about any students other than the complainant* (except if an authorized school official requested and obtained a waiver of confidentiality rights from the parents of other involved students). This includes any information about discipline imposed by the school.

Was the Independent Review Process Helpful?

At the end of this process, involved individuals will be asked to complete an evaluation form and return it to the Vermont Department of Education. Feedback from complainants and/or their parents/guardians helps the DOE and HRC in assessing an independent reviewer's performance and/or whether the information provided was helpful.

*A student who has been disciplined for substantiated harassment and who is dissatisfied with the school's disciplinary actions should refer to the appeal provisions of the school's discipline policy. Employee harassment complaints and related disciplinary actions fall under the appeal provisions of applicable statutes, collective bargaining agreements, and the school's employment policy. Bullying and other complaints are not covered by the harassment law and independent review process.

What Other Options are Available to Persons Dissatisfied with the School's Response to a Harassment Complaint?

- Request mediation or other methods of alternative dispute resolution from the school
- Consult with a private attorney
- Contact the Vermont Human Rights Commission or the Office of Civil Rights of the U.S. Department of Education at the following addresses:

Vermont Human Rights Commission
14-16 Baldwin Street
Montpelier, VT 05633-6301
800-416-2010 or 802-828-2480 (voice)
802-828-2481 (fax)
877-294-9200 (TTY)
human.rights@state.vt.us

Office for Civil Rights/Boston
U.S. Department of Education
33 Arch Street, Suite 900
Boston, MA 02110
Tel.: (617) 289-0111
Fax: (617) 289-0150
ocr@ed.gov

This is an informational brochure developed by the Vermont Department of Education and the Vermont Human Rights Commission.

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VERMONT DEPARTMENT OF
EDUCATION
120 State Street
Montpelier, VT 05620

VERMONT HUMAN RIGHTS
COMMISSION
14-16 Baldwin Avenue
Montpelier, VT 05633-6301

Independent Review of Harassment Complaints

Act 91, Vermont's law on the prevention of student harassment in public and private schools, has an important feature called Independent Review.

Here is some basic information about Independent Reviews.

"Harassment" means an incident or incidents of verbal, written, visual, or physical conduct based on or motivated by a student's or a student's family member's actual or perceived race, creed, color, national origin, marital status, disability, sex, sexual orientation, or gender identity that has the purpose or effect of objectively and substantially undermining and detracting from or interfering with a student's educational performance or access to school resources or creating an objectively intimidating, hostile, or offensive environment.

16 V.S.A. §11(26)(A)